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# ***Public Utilities Commission of the State of California***

## ***Results of Public Agenda 3122***

***Meeting Held on Thursday, October 30, 2003 10:00 a.m.***

***San Francisco, California***

### **Commissioners**

**Michael R. Peevey, President**

**Geoffrey F. Brown**

**Susan P. Kennedy**

**Loretta M. Lynch**

**Carl W. Wood**

*Website: <http://www.cpuc.ca.gov>*

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### **Scheduled Commission Meetings**

**505 Van Ness Avenue, San Francisco**

<i>Ratesetting Deliberative Meeting*</i> <i>Room 5305</i> <i>(1:30 p.m.)</i> <i>Closed to the Public</i>	<i>Commission Meeting</i> <i>Auditorium</i> <i>(10 a.m.)</i> <i>Open to the Public</i>
Friday, November 07, 2003 (San Francisco)	Thursday, November 13, 2003 (San Francisco)
Monday, December 01, 2003 (San Francisco)	Thursday, December 04, 2003 (San Francisco)
Monday, December 15, 2003 (San Francisco)	Thursday, December 18, 2003 (San Francisco)

*\*Ratesetting Deliberative Meeting dates are reserved as noted but will be held only if there are ratesetting matters to be considered and a Commissioner has requested that a Ratesetting Deliberative Meeting be held.*

For further information contact the Public Advisor  
(415) 703-2074 E-mail: [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov)



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## PUBLIC COMMENT

**The following items are not subject to public comment:**

- All items on the closed session agenda; these are HEX and EX items.
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### Public Comment:

Re 35: Jim Gordon, Communications Workers of America District 9, Folsom, CA

Re 36: Robert Howard, United Workers Union of America Local 246

Re 37:

Greg Ball, Communications Workers of America Local 942, Sacramento, CA)

Jim Gordon, Communications Workers of America District 9, Folsom, CA

Jose Perez, Latino Journal, Sacramento, CA

## Consent Agenda

*Items shown on the Consent Agenda will be taken up and voted on as a group in one of the first items of business of each Commission meeting. Items may be removed from the Consent Agenda for discussion on the Regular Agenda at the request of any Commissioner prior to the meeting.*

### Orders and Resolutions

- 1**                      **A03-02-001 - Zephyr Communications, L.L.C. (Applicant).**

[2605]                This decision grants Applicant a certificate of public convenience and necessity under Pub. Util. Code § 1001 to provide local exchange, resold intraLATA and InterLATA telephone service, and hi-speed data services. This proceeding is closed.

                         (Comr Brown - ALJ Bemederfer)

                         Agenda 3119, Item 7 9/18/2003 (Wood);

                         Agenda 3120, Item 4 10/2/2003 (Brown);

                         Agenda 3121, Item 3 10/16/2003 (Wood)

**Outcome Held (11/13/03, Consent Agenda.)**

                         Yes: (none)

                         No: (none)

                         Abstain: (none)

                         Absent: (none)
  
- 2**                      **Res ALJ 176-3122**

[2693]                Ratification of preliminary determination of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4 and 6.1 of the Commission's Rules of Practice and Procedure.

**Outcome Approved**

                         Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

                         No: (none)

                         Abstain: (none)

                         Absent: (none)

- 3**  
[2711]      **A03-05-017 - SBC California (SBC).**  
This decision grants SBC authority to lease small amounts of space in three central office buildings to its affiliate SNET Diversified Services, Inc. under G.O. 69-C and dismisses §851 application. This proceeding is closed.  
(Comr Kennedy - ALJ Bemmesderfer)  
Agenda 3121, Item 6 10/16/2003 (Lynch)  
**Outcome Held (11/13/03, Consent Agenda.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 4**  
[2740]      **C03-06-029 - Stewart Valley Homeowners Association vs. SBC Pacific Bell (SBC).**  
This decision grants SBC's motion to dismiss complaint. This proceeding is closed.  
(Comr Brown - ALJ Walker)  
**Outcome Held (11/13/03, Consent Agenda.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 5**  
[2785]      **A02-10-025 - San Bernardino Associated Governments (SANBAG).**  
For an order authorizing construction of a grade separation structure between Hunts Lane and the tracks of Union Pacific Railroad in the City of Colton and the City of San Bernardino. This decision dismisses SANBAG's application without prejudice. This proceeding is closed.  
(Exam Clark)  
**Outcome Signed**  
D03-10-069  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)

**6**

[2791]

**A03-08-009 - California-American Water Company (Cal-Am).**

This decision denies Cal-Am's request to establish a special Security Costs Memorandum Account. In the absence of a showing of critical need, requests dealing with security costs should be made in a utility's general rate case, where the costs can be established with greater precision. This proceeding is closed.

(Comr Peevey - ALJ Walker)

**Outcome Signed**

D03-10-070

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**7**

[2813]

**A01-11-014 - Verizon Advanced Data Inc.**

For transfer of its Intrastate Advanced Data Services Assets and California Customer Base, withdraw service and cancel its certificate of public convenience and necessity. A00-09-028 - Related matters. This decision awards The Utility Reform Network (TURN) \$13,585.44 for its contribution to D03-06-044, the full amount of TURN's request.

(Comr Wood - ALJ Thomas)

**Outcome Signed**

D03-10-071

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**8**

[2814]

**A03-01-034 - California Water Service Company (CWS).**

A03-01-035, A03-01-036, A03-01-037 - Related matters. This decision grants CWS inflation-indexed interim rate increase effective September 12, 2003.

(Comr Brown - ALJ Thorson)

**Outcome Signed**

D03-10-072

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**9**

[2820]

**A03-06-037 - Brenda Mason, dba A Car 4 Kids (Applicant).**

This decision authorizes Applicant to operate as a passenger stage corporation to transport children between points in Contra Costa, Alameda, and San Francisco Counties, and to establish a zone of rate freedom. This proceeding is closed.

(Exam Clark)

Agenda 3121, Item 27 10/16/2003 (Staff)

**Outcome Held (11/13/03, Consent Agenda.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**10**

[2821]

**Res L-306**

This resolution authorizes release of investigation records regarding a trench collapse in Rio Linda on 9/16/2001.

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**11**

[2824]

**I00-05-020 - Investigation on the Commission's own motion into the status, rates, rules, operations, service, facilities, contracts, and practices of the Union Pacific Railroad Company in the supply, distribution, and sale of water by the Keene Water System to the communities of Keene and Woodford in Kern County.**

This decision closes this Investigation and requires Union Pacific Railroad Company to file an application for a rate increase for its Keene Water System.

This proceeding is closed.

(Comr Wood - ALJ Patrick)

**Outcome Signed**

D03-10-073

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**12**

[2825]

**A02-05-022 - Pacific Gas and Electric Company (PG&E).**

For authority to establish its authorized rates of return on common equity for electric utility operations and gas distribution for Test Year 2003. This decision requires PG&E to file a new application to true-up its capital structure resulting from its implementation of a financing plan approved by the Bankruptcy Court. This proceeding is closed.

(Comr Brown, Comr Peevey - ALJ Galvin)

**Outcome Signed**

D03-10-074

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**13**

[2844]

**Res E-3849 - Mountain Utilities (MU).**

This resolution approves MU's 3 proposals; 1) a procedure for regular monthly adjustments to MU's Diesel Fuel Balancing Account (DFBA) charges to reflect the volatile diesel fuel marketplace; 2) to re-establish MU's Fuel Adjustment Rate Charge and subsequently extinguish the annual Fuel Adjustment Cost Procedure within one year and 3) Revise the refund procedure of the One-Year Forecast Diesel Fuel Expense Recovery provision to make refunds as a credit to the DFBA and delete the expired One-Year Forecast Diesel Fuel Expense Recovery provision from MU's Preliminary Statement and Rates. (Advice Letter 20-E, filed August 27, 2003)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**14**

[2845]

**Res E-3850 - Southern California Edison Company (Edison).**

This resolution approves Edison's investment management agreements with Alliance Capital Management L.P. and State Street Global Advisors. (Advice Letter 1748-E, filed September 22, 2003)

**Outcome Held (12/04/03, Consent Agenda. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**15**

[2846]

**A02-09-047 - Los Angeles County Metropolitan Transportation Authority (MTA).**

A02-12-013, A03-04-031 - Related matters. This decision grants MTA's request to construct four at-grade highway-rail crossings at Temple, First, Hewitt and Vignes Streets and two at-grade pedestrian-rail crossings at North and South Pedestrian Crossings as part of the Eastside Corridor Light Rail Transit Line project in the City of Los Angeles, Los Angeles County. These proceedings are closed.

(Exam Clark)

**Outcome Signed**

D03-10-075

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**16**

[2847]

**A03-06-007 - City of Oakland.**

This decision grants the request of the City of Oakland to construct an at grade highway/rail crossing across Middle Harbor Road in the City of Oakland in Alameda County. This proceeding is closed.

(Exam Clark)

**Outcome Signed**

D03-10-076

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**17**

[2848]

**A03-07-013 - Los Angeles County Metropolitan Transportation Authority (MTA).**

This decision grants MTA's request to construct three grade-separated highway-rail crossings (roadway underpasses) at El Monte Busway, U.S. Highway 101 Freeway, and Commercial Street as part of the Eastside Corridor Light Rail Transit Line project in the City of Los Angeles, Los Angeles County. This proceeding is closed.

(Exam Clark)

**Outcome Signed**

D03-10-077

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

- 
- 18**  
[2869]      **A03-07-052 - Pacific Pipeline System LLC (PPS).**  
This decision authorizes PPS to issue \$176.4 million of new, unsecured debt to refinance the same amount of existing debt. This proceeding is closed.  
(Comr Kennedy - ALJ Kenney)  
**Outcome Signed**  
D03-10-078  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 19**  
[2871]      **Res W-4433 - Del Oro Water Company (DOWC).**  
This resolution revises DOWC's charges for bad check service, reconnection, and collection charges. (Supplemental Advice Letter 120-A, filed July 29, 2003)  
**Outcome Approved**  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 20**  
[2872]      **Res W-4434 - California Water Service Company (CWSC), Mid-Peninsula District.**  
This resolution authorizes CWSC, Mid-Peninsula District, an offset rate increase producing additional annual revenues of \$1,832,100 or 9.7% for increases in the cost of purchased water. (Advice Letter 1550, filed June 24, 2003)  
**Outcome Approved**  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 21**  
[2873]      **I03-05-011 - In the Matter of the Order Instituting Investigation into the operations and practices of Bill Dennis and Gloria Dennis a Partnership doing business as Tour Designs.**  
This decision finds that Tour Designs' request for a Class B Charter-Party Carrier operating authority should be denied, and that Tour Designs should pay a fine of \$10,200 and reimburse the Commission for \$8,633.21 in expenses. This proceeding is closed.  
(Comr Lynch - ALJ Bushey)  
**Outcome Signed**  
D03-10-079  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
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**22**

[2874]

**A99-09-049 - Southern California Edison Company.**

For approval of Program Year 2000 and 2001 energy efficiency program plans, budgets, and performance award mechanism. A99-09-050, A99-09-057, A99-09-058 - Related matters. This decision awards The Utility Reform Network (TURN) \$31,042.14 for its contribution to D99-12-053, D00-07-017 and D03-07-019, Energy Resolution E-3687, and related rulings. This figure represents \$725 less than TURN's requested amount of \$31,767.14 because the requested hourly rate of \$90 for paralegal Hayley Goodson was reduced to an \$80 rate. These proceedings are closed.

(Comr Lynch - ALJ Thomas)

**Outcome Signed**

D03-10-080

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**23**

[2875]

**A03-07-021 - Choice Telecomm, LLC (Applicant).**

This decision grants Applicant a certificate of public convenience and necessity to provide limited facilities-based local exchange telecommunications services. Applicant was previously authorized to resell local exchange services. This proceeding is closed.

(Comr Lynch - ALJ O'Donnell)

**Outcome Signed**

D03-10-081

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**24**

[2876]

**Res T-16787 - SBC California (SBC).**

This resolution approves an Interconnection Agreement between SBC and Enhanced Communications Group, LLC., in accordance with the provisions of General Order 96-A and Resolution ALJ-181.

(Advice Letter 24064, filed August 1, 2003)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**25**

[2877]

**Res T-16790 - Citizens Telecommunications Co. of California, Inc. (CTC-California).**

This resolution approves a CMRS Interconnection Agreement between CTC-California and Nextel of California, Inc., in accordance with the provisions of General Order 96-A and Resolution ALJ-181. (Advice Letter 813, filed August 29, 2003)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**26**

[2878]

**Res T-16788 - SBC California (SBC).**

This resolution approves an Interconnection Agreement between SBC and Ernest Communications, Inc., in accordance with the provisions of General Order 96-A and Resolution ALJ-181. (Advice Letter 24216, filed September 16, 2003)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**27**

[2879]

**Res W-4435 - Interstate-5 Utility Company, Inc. (Sewer) (I-5SC).**

This resolution authorizes I-5SC a general rate increase producing additional annual revenues of \$28,699 or 34.5% for test year 2002.

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**28 (Rev.)**  
[2885]

**A03-02-032 - Issa Essi and Kawkab Ghaddar, dba Best Shuttle and Mansour International, LLC.**

This decision grants the application to transfer, pursuant to Pub. Util. Code §851, et seq., a Passenger Stage Corporation (PSC) certificate from Issa Essi and Kawkab Ghaddar, dba Best Shuttle, to Mansour International, LLC (Transferee). Transferee is also authorized to expand its PSC certificate pursuant to §1036, and establish a Zone of Rate Freedom pursuant to §454.2. This proceeding is closed.

(Comr Brown - ALJ Patrick)

10/22/2003 - This revision was not shown on the Agenda mailed to the public.

**Outcome Signed**

D03-10-082

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**29**  
[2886]

**A03-03-030 - Xe Do Hoang Transportation, LLC (Applicant).**

This decision authorizes Applicant to extend its on-call passenger stage corporation operations to include (1) "county-to-county" service between 11 counties, and (2) service between points in Orange County, on the one hand, and Los Angeles International Airport, John Wayne Airport, Los Angeles/Long Beach Harbors, and Westminster, on the other hand; and to modify its zone of rate freedom. This proceeding is closed.

(Exam Clark)

**Outcome Signed**

D03-10-083

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**30**  
[2887]

**A03-06-005 - New Express Transportation, LLC (Applicant).**

This decision authorizes Applicant to extend its passenger stage corporation operations to include service (1) between points in Los Angeles County and Burbank Airport, (2) between points in San Diego County and various airports, and (3) between six Southern California airports; and to modify its zone of rate freedom. This proceeding is closed.

(Exam Clark)

**Outcome Signed**

D03-10-084

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**31 (Rev.)**

[2895]

**R01-10-024 - Order Instituting Rulemaking to establish policies and cost recovery mechanisms for generation procurement and renewable resource development.**

This decision awards \$132,691.92 to the Union of Concerned Scientists for its substantial contribution to D03-06-071.

(Comr Peevey - ALJ Allen)

10/22/2003 - This revision was not shown on the Agenda mailed to the public.

**Outcome Signed**

D03-10-085

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

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## Regular Agenda

### Energy Orders

**32**

[2370]

**A02-03-047 - Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E).**

A02-03-048, A02-03-049 - Related matters. This decision grants funding for certain aspects of Low Emission Vehicle Programs, as requested by Southern California Gas Company, San Diego Gas & Electric Company, Southern California Edison Company and Pacific Gas and Electric Company. These proceedings are closed.

(Comr Wood - ALJ Prestidge)

Agenda 3116, Item 5 7/10/2003 (Kennedy);

Agenda 3117, Item 85 8/21/2003 (Kennedy);

Agenda 3120, Item 28 10/2/2003 (Peevey);

Agenda 3121, Item 34 10/16/2003 (Staff)

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**32a (Rev.)**

[2372]

**ALTERNATE TO ITEM 2370**

A02-03-048, A02-03-049 - Related matters. This alternate acts on applications by Southern California Gas Company, San Diego Gas & Electric Company, Southern California Edison Company, and Pacific Gas & Electric Company for funding for the discretionary aspects of their LEV programs. This alternate allows several programs that were disallowed in the proposed decision, contingent upon Advice Letter approval. In addition, it requires the Division of Strategic Planning to prepare a report on the effectiveness of the programs approved by this decision, and submit this report to the State Legislature by August 30th, 2004, to meet the requirements of Pub. Util. Code §740.3(b). These proceedings are closed.

(Comr Lynch)

Agenda 3120, Item 28a 10/2/2003 (Peevey);

Agenda 3121, Item 34a 10/16/2003 (Staff)

10/28/2003 - This revision was not shown on the Agenda mailed to the public.

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**32b**

[2838]

**ALTERNATE TO ITEM 2370**

A02-03-048, A02-03-049 - Related matters. This alternate acts on applications by Southern California Gas Company, San Diego Gas & Electric Company, Southern California Edison Company, and Pacific Gas and Electric Company for funding for the discretionary aspects of their low emission vehicle programs. This alternate approves all funding requests of the utilities till the end of 2005. This alternate also provides direction to the utilities in what will be expected of them in order to gain program funding approval in the future. These proceedings are closed.

(Comr Kennedy)

Agenda 3121, Item 34b 10/16/2003 (Staff)

**Outcome Signed**

D03-10-086

Yes: (Kennedy, Peevey, Wood)

No: (Brown, Lynch)

Abstain: (none)

Absent: (none)

**33**

[2656]

**A00-11-038 - Southern California Edison Company.**

For authority to institute a rate stabilization plan with a rate increase and end of rate freeze tariffs.

A00-11-056, A00-10-028 - Related matters. This decision addresses the expanded registration of electric service providers (ESPs) as mandated by Assembly Bill (AB) 117. AB 117 requires the registration of all ESPs who offer electric service to customers in California. The decision also solicits comments on whether the ESP's deposit amount is sufficient to cover the reentry fees mentioned in AB 117.

(Comr Lynch - ALJ Wong)

Agenda 3120, Item 34 10/2/2003 (Peevey)

**Outcome Held (12/4/03. Possible Alternate.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**34 (Rev.)**

[2815]

**R03-07-008 - Order Instituting Rulemaking adopting rules to account for the consideration received by regulated California electric and natural gas utilities under a settlement with El Paso Natural Gas Company, et al.**

This order adopts accounting and ratemaking treatment of the portion of the El Paso Settlement that will be paid to entities, utilities and ratepayers subject to the jurisdiction of the Commission. Respondent utilities shall file advice letters within 30 days of the date this order is mailed to amend their tariffs as necessary to propose refund plans and implement the accounting and ratemaking treatment ordered herein. The petition to intervene filed by the County of San Bernardino is granted. This proceeding is closed.

(Comr Kennedy - ALJ Mattson)

10/28/2003 - This revision was not shown on the Agenda mailed to the public.

**Outcome Signed**

D03-10-087

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

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**Energy Resolutions and Written Reports****35**  
[2610] **Res E-3843 - Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E).**

PG&E, SCE, SDG&E filed tariff changes to implement the rules governing the rights and obligations of Direct Access (DA) customers to switch between bundled and DA service, as adopted in D03-05-034, the "Switching Order". Approved. (PG&E Advice Letter (AL) 2393-E, SCE AL 1717-E, and SDG&E AL 1508-E, filed June 23, 2003)

Agenda 3119, Item 36 9/18/2003 (Staff);

Agenda 3120, Item 41 10/2/2003 (Wood)

**Outcome Held (11/13/03. For Alternate.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**35a**  
[2890] **ALTERNATE TO ITEM 2610**

PG&E, SCE, SDG&E filed tariff changes to implement rules governing the rights and obligations of Direct Access (DA) customers to switch between bundled and DA service, as adopted in D03-05-034, the "Switching Order". Approved, with modifications. (PG&E Advice Letter (AL) 2393-E, SCE AL 1717-E, and SDG&E AL 1508-E, filed June 23, 2003)

(Comr Wood)

**Outcome Held (11/13/03. For Alternate.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**36**  
[2891] **Res E-3814 - Southern California Edison Company (SCE).**

SCE seeks Commission approval of one power purchase agreement contributing toward procurement of at least an additional one percent of the utility's annual electric sales from renewable energy resources irrespective of the utility's residual net short. (Advice Letter 1680-E, filed January 14, 2003)

**Outcome Held (11/13/03. For further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**36a**

[2892]

**ALTERNATE TO ITEM 2891**

This alternate differs from the proposed Energy Division Resolution in that it approves one power purchase agreement which Southern California Edison (SCE) requests to enter into in 2003 to contribute toward procurement of at least one percent of the utility's annual electric sales from renewable energy resources.

(Comr Wood)

**Outcome Held (11/13/03. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**Telecommunication Orders****37**

[1866]

**R01-09-001 - Commission's own motion to assess and revise the new regulatory framework for Pacific Bell and Verizon California Incorporated.**

I01-09-002 - Related matters. In this decision, the Commission evaluates the service quality of Pacific Bell and Verizon California, Inc. over the period January 1, 1990 through the present. The Commission ordered such a review in D89-10-031, which established the New Regulatory Framework as means of regulating both carriers.

(Comr Kennedy - ALJ Thomas)

Agenda 3111, Item 1 4/17/2003 (Kennedy);

Agenda 3114, Item H-3 6/5/2003 (Peevey);

Agenda 3116, Item H-1 7/10/2003 (Peevey);

Agenda 3117, Item 101 8/21/2003 (Staff);

Agenda 3118, Item 37 9/4/2003 (Kennedy);

Agenda 3119, Item 37 9/18/2003 (Brown);

Agenda 3120, Item 42 10/2/2003 (Wood);

Agenda 3121, Item 41 10/16/2003 (Brown)

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**37a**

[2366]

**ALTERNATE TO ITEM 1866**

This alternate finds that under the New Regulatory Framework (NRF), Verizon has provided excellent customer service. Pacific Bell has provided generally good service, but several of its operations suffer from poor service quality. The alternate reaches these conclusions through a statistical examination of the direct measures of service quality provided by Pacific Bell and Verizon to this Commission and to the FCC. The alternate further finds that Verizon and Pacific Bell developed different service quality records during the NRF period, but that both show an improving trend in service quality. This evidence casts doubt on the proposition that NRF systematically decreases the quality of customer service.

(Comr Kennedy, Comr Peevey)

Agenda 3116, Item H-1a 7/10/2003 (Peevey);

Agenda 3117, Item 101a 8/21/2003 (Staff);

Agenda 3118, Item 37a 9/4/2003 (Kennedy);

Agenda 3119, Item 37a 9/18/2003 (Brown);

Agenda 3120, Item 42a 10/2/2003 (Wood);

Agenda 3121, Item 41a 10/16/2003 (Brown)

**Outcome Signed (Comr. Brown reserves the right to file a concurrence. Comr. Kennedy will file a concurrence. Comr. Lynch reserves the right to file a dissent. Comr. Wood reserves the right to file a dissent.)**

D03-10-088

Yes: (Brown, Kennedy, Peevey)

No: (Lynch, Wood)

Abstain: (none)

Absent: (none)

**37b**

[2677]

**ALTERNATE TO ITEM 1866**

This alternate finds that, under the New Regulatory Framework (NRF), Verizon provided generally improving service that compared favorably with other large carriers on most measures, with just a few areas of weakness. Pacific Bell's service was stable for the majority of measures we studied and compared favorably to other large carriers on many measures, but Pacific's service exhibited several important areas of weakness, especially for residential customers. The alternate finds that there is insufficient evidence to establish whether NRF caused either positive or negative changes in service quality.

(Comr Lynch, Comr Wood)

Agenda 3119, Item 37b 9/18/2003 (Brown);

Agenda 3120, Item 42b 10/2/2003 (Wood);

Agenda 3121, Item 41b 10/16/2003 (Brown)

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**38**

[2513]

**R00-02-004 - Order Instituting Rulemaking on the Commission's own motion to establish consumer rights and consumer protection rules applicable to all telecommunications utilities.**

The Commission adopts General Order No. ###, Rules Governing Telecommunications Consumer Protection, applicable to all Commission-regulated telecommunications utilities. G.O. ### sets forth: in Part 1, a telecommunications consumers' Bill of Rights; in Part 2, a set of Consumer Protection Rules all carriers must follow to protect those rights; in Part 3, Rules Governing Billing for Non-communications-Related Charges; and in Part 4, Rules Governing Slamming Complaints. The proceeding remains open to consider changes to the current limitation of liability provisions, rules protecting non-English speaking consumers, and a telecommunications consumer education program. (Comr Wood - ALJ McVicar)

Agenda 3119, Item 40 9/18/2003 (Staff);

Agenda 3120, Item 45 10/2/2003 (Brown)

**Outcome Held (12/4/03. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**39**

[2571]

**A99-03-025 - Roseville Telephone Company (Roseville).**

On May 3, 2002, Roseville filed a petition to modify D01-06-077. Specifically, it asks to remove the requirement to share 50% of its earnings between the benchmark rate of return and the ceiling rate of return. This decision denies the petition and also requires Roseville to file for its next NRF review no later than 90 days after a final decision in Rulemaking 01-09-001 and Investigation 01-09-002, the NRF reviews for Pacific Bell Telephone Company and Verizon California Incorporated. This proceeding is closed.

(Comr Lynch - ALJ O'Donnell)

Agenda 3118, Item 42 9/4/2003 (Kennedy);

Agenda 3120, Item 46 10/2/2003 (Kennedy)

**Outcome Held (11/13/03. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**39a**

[2880]

**ALTERNATE TO ITEM 2571**

This alternate grants Roseville's petition to modify. This proceeding is closed.

(Comr Kennedy)

**Outcome Held (11/13/03. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**40**

[2673]

**C98-04-004 - The Utility Consumers' Action Network vs. Pacific Bell.**

C98-06-003, C98-06-027, C98-06-049, I90-02-047 - Related matters. This decision awards Greenlining Institute and Latino Issues Forum \$338,405.16 for its contribution as intervenor to D01-09-058. These proceedings are closed.

(Comr Brown - ALJ Bushey)

Agenda 3121, Item 45 10/16/2003 (Kennedy)

**Outcome Held (11/13/03. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**41**

[2823]

**R95-04-043 - Order Instituting Rulemaking on the Commission's own motion into competition for local exchange service.**

I95-04-044 - Related matters. This decision implements a geographic split of the 909 Area Code to relieve impending code exhaust. The new 951 Area Code will be assigned to the region south of the split line.

(Comr Lynch - ALJ Pulsifer)

**Outcome Held (11/13/03. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**41a**

[2826]

**ALTERNATE TO ITEM 2823**

I95-04-044 - Related matters. This decision concludes that adequate telephone numbers still exist in the 909 area code to provide customers and telephone carriers with sufficient service. It is not necessary at this time to split or overlay the 909 area code. Instead, the Commission should closely monitor the additional need for telephone numbers in the 909 area code to assure adequate telephone number supplies, implement its authority to increase the contamination rate in the 909 area code, and further advocate other number conservation proposals with the Federal Communications Commission.

(Comr Lynch)

**Outcome Held (11/13/03. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

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**Telecommunication Resolutions and Reports****42**

[2789]

**Res T-16764 - Ducor Telephone Company (Ducor).**

This resolution addresses the General Rate Case filed by Ducor in compliance with D01-05-031. (Advice Letters 277, 277A and 277B, filed December 19, 2002, April 7, 2003, and July 8, 2003 respectively)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**43**

[2790]

**Res T-16762 - Cal-Ore Telephone Company (Cal-Ore).**

This resolution authorizes California High Cost Fund - A support of \$1,620,332 for Cal-Ore for the year 2004. An intrastate total operating revenue of \$3,863,388 and a total intrastate rate base amount of \$6,429,915 with an authorized overall Rate of Return of 10.00% are adopted for the test year 2004. (Advice Letters 274, 274A and 274B, filed December 19, 2002, April 7, 2003 and July 8, 2003 respectively)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**44**

[2792]

**Res T-16756 - Calaveras Telephone Company, Inc. (Calaveras).**

This resolution authorizes California High Cost Fund-A support of \$1,408,640 for Calaveras for the year 2004. An intrastate total operating revenue of \$4,481,973 and a total intrastate rate base amount of \$8,819,934 with an authorized overall Rate of Return of 10.00% are adopted for the test year 2004. (Advice Letter 257, 257A and 257B, filed December 17, 2002, April 16, 2003, and July 9, 2003, respectively)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**45**

[2808]

**Res T-16772 - SBC California (SBC).**

This resolution accepts SBC's annual earnings advice letter filing, subject to any corrections or adjustments that may be appropriate as a result of future Commission decisions. (Advice Letter 23640, filed April 1, 2003)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**46**

[2809]

**Res T-16774 - Citizens Telecommunications Company of California, Inc. (CTC).**

This resolution accepts CTC's annual intrastate shareable advice letter filing, subject to any corrections or adjustments that may be appropriate as a result of future Commission decisions or actions. (Advice Letter 792, filed on April 7, 2003)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**47**

[2810]

**Res T-16773 - Verizon California, Inc. (Verizon).**

This resolution accepts Verizon's annual intrastate earnings advice letter filing, subject to any corrections or adjustments that may be appropriate as a result of future Commission decisions or actions. (Advice Letter 10475, filed April 1, 2003)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**48**

[2811]

**Res T-16755 - Pinnacles Telephone Company (Pinnacles).**

This resolution authorizes California High Cost Fund-A support of \$300,400 for Pinnacles for the year 2004. An intrastate total operating revenue of \$727,810 and a total intrastate rate base amount of \$883,743 with an authorized overall Rate of Return of 10.00% are adopted for the test year 2004. (Advice Letter 188, 188A and 188B, filed December 23, 2002, April 11, 2003 and July 9, 2003, respectively)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**49**

[2812]

**Res T-16771 - The Ponderosa Telephone Company (Ponderosa).**

This resolution authorizes California High Cost Fund - A support of \$3,774,297 for Ponderosa for the year 2004. An intrastate total operating revenue of \$14,058,190 and a total intrastate rate base amount of \$24,609,598 with an authorized overall Rate of Return of 10.00% are adopted for the test year 2004. (Advice Letter 316, filed December 30, 2002)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**50**

[2830]

**Res T-16775 - Roseville Telephone Company (RTC).**

This resolution accepts RTC's annual intrastate advice letter filing, subject to any corrections or adjustments that may be appropriate as a result of future Commission decisions or actions. (Advice Letter 821, filed July 11, 2003)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

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## Legislative Matters

**51**

[2842]

### **S. 150: Internet Tax Non-discrimination Act of 2003:**

A bill to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act.

Agenda 3121, Item 49 10/16/2003 (Staff)

### **Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

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## Commissioner's Reports

**52**

### Commissioners' Report

[2694]

Miscellaneous Commissioners' reports.

### Outcome Information Only

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

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## Management Reports and Resolutions

**53**

[2695]

### Management Reports

Miscellaneous Management reports.

### Outcome Information Only

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

## Closed Session

*This notice is furnished under Government Code Sections 11125 and 11126.3. The Commission will meet in Closed Session following the Public Session of its regularly scheduled meeting. In the Closed Session, the Commission may consider personnel matters as provided under Government Code Section 11126(a), institution of proceedings or disciplinary actions against any person or entity under the jurisdiction of the Commission as provided under Government Code Sections 11126(d)(2) and 11126(e)(2)(C)(i), and pending litigation as provided under Government Code Section 11126(e). Additional items may be added to the closed session agenda pursuant to Gov. Code Section 11126.3(d). If in Closed Session the Commission votes to appoint, employ, or dismiss a public employee, the Commission will thereafter reconvene in Open Session to make the*

### Non-Federal Items

58

[2883]

#### **C02-04-003 - Conference with Legal Counsel – Application for Rehearing**

Disposition of application of AC Farms Sherwood, et al. for rehearing of D02-11-003. The Commission determined that Southern California Edison Company properly provides service to AC Farms Sherwood, et al. under Schedule PA-1 and that AC Farms, et al. are not eligible to receive service under Schedule GS-1. In addition, the Commission suggested that, if they seek to change the criteria for eligibility of service under Schedule GS-1, AC Farms Sherwood, et al. could request modification under Schedule 1708.

(Comr Brown - ALJ DeBerry)

#### **Outcome Signed**

D03-10-089

Yes: (Brown, Kennedy, Lynch, Peevey)

No: (none)

Abstain: (none)

Absent: (Wood)

59

[2884]

#### **R.01-10-024 - Conference with Legal Counsel – Application for Rehearing**

Order disposing of application for rehearing of D03-06-067 filed by San Diego Gas & Electric Company (SDG&E). D03-06-067 granted, in large part, Southern California Edison Company's (Edison's) petition to modify D02-12-074, which approved the short-term procurement plans for SDG&E, Edison and Pacific Gas and Electric Company (PG&E). Among other things, D03-06-067 specifies a dollar amount for the disallowance cap for violations of Standard of Conduct 4 (least-cost dispatch standard).

#### **Outcome Signed**

D03-10-090

Yes: (Brown, Kennedy, Lynch, Peevey)

No: (none)

Abstain: (none)

Absent: (Wood)